

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH**

Diary No.686/2017
In
C.P.No.25/271/272/GB/2017

Under Section 271, 272 of the Companies Act, 2013

In the matter of:

Mukesh Goel. ... Petitioners

-Versus-

Goel Entrade Pvt. Ltd. ... Respondents

Coram:

Hon'ble Mr.Justice P K Saikia, Member(J)

.....

ORDER

Date of Order: 29th November 2017.

Diary No.686/2017

Ms S. Bharti, Mr R.K. Bhatra, Mr J.K. Choudhury, Mr M. Kashyap & Ms M. Hore, learned Advocates have appeared on behalf of the petitioner.

2. This is an application filed under Section 271/272 of the Companies Act, 2013 (as notified vide No.S.O.3677(E) dated 7th December, 2016) seeking the following reliefs:

- (a) *wind up the affairs of the Respondent Company, Goel Entrade Pvt. Limited under Section 271 (e) of the Companies Act, 2013 and declare Goel Entrade Pvt. Limited to be wound up by operation of the order of this Hon'ble Tribunal;*
- (b) *during the pendency of the petition for winding up, Official Liquidator attached to this Tribunal may be appointed as Provisional Liquidator to initiate and carry out the process of liquidation of the Respondent Company;*

- (c) *direction for publication of the citation in the leading newspapers in accordance with law;*
- (d) *Costs;*
- (e) *pass any such order or orders as Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case."*

3. Registry has examined the petition and found that the petition has been filed in accordance with the prescription of law and the Rules framed thereunder. The petition is admitted. Registry is directed to do the needful in that regard.

4. In the petition, it has been stated that the respondent company was incorporated under the Companies Act, 1956 (in short, Act of 1956) and as per the Articles of Association, the company is engaged in various business activities such as:

- *a) *To carry on all or any of the business of buyers, sellers, suppliers, traders, importers, exporters, brokers, agents, stockists, distributors, dealers and manufacturer of all kinds of electrical water pumps, appliances, fans, wires & Cables, switches, lightings & luminaries, geysers, electrical motors and other allied electrical items, home appliances & electronics, camera, telephone and telephonic instruments, EPBX, Mobile phones and spares and accessories of the aforesaid items.*
- b) *To carry on all or any of the business of buyers, sellers, suppliers, traders, importers, exporters, brokers, agents, stockists, distributors, dealers and manufacturer of all kinds of Diesel and oil engines, pump sets, generators, rice huller, Atta Chaki, Expeller, Chira Machines, Vibrators, Concrete mixtures, Power Tillers and Tractors, all kinds of Domestic, Industrial, Agricultural, Construction & workshop machineries, hand tools, power tools, beltings, and spares and accessories thereof.*
- c) *To carry on all or any of the business of buyers, sellers, suppliers, traders, importers, exporters, brokers, agents, stockists, distributors, dealers and manufacturer of all kinds of G.I. Pipes, M.S. Pipes, PVC Pipes, Cast Iron pipes, all kinds of plumbing and boring pipes used for domestic, agricultural and industrial purpose, hosepipes, borewell, strainers, G.I. and PVC pipe fittings & Pvc pipe jointing adhesives, Marble & Granites, Sanitarywares, Tiles, Valves, Bathroom fittings & accessories of all kinds, water storage tanks & other plastic rotomoulded products, Plastic carry bags of all varieties.*
- d) *To carry on all or any of the business of buyers, sellers, suppliers, traders, importers, exporters, brokers, agents, stockists, distributors, dealers and manufacturer of all kinds of Building material and accessories like cement, rod, angle channel, section, door fittings, PVC doors-windows-frames-walls-panels-partitions & roofing sheets, ceiling & partition boards of all kinds, paints, distempers, brushes, adhesives, mica & other allied building hardwares, G.C. Sheet, Roofing sheets of all kinds, G.P. Sheets, M.S. Sheets, C.R. Sheets and other allied items.*

- e) *To carry on all or any of the business of buyers, sellers, suppliers, traders, importers, exporters, brokers, agents, stockists, distributors, dealers and manufacturer of all kinds Pvs & plastic goods manufactured with Extrusion, Injection moulding, Blow moulding, Rotomoulding & any other plastic processing technic including raw material & chemicals used in plastic processing industry.*
- f) *To carry on all or any of the business of buyers, sellers, suppliers, traders, importers, exporters, brokers, agents, stockists, distributors, dealers and manufacturer of all kinds Processed & packaged water, Packaged foods & drinks of all varieties, printing & packaging goods of all kinds."*

5. It has been submitted that the company has only two shareholders and the petitioner is one of them who is holding 37.5% equity shares of the paid-up equity capital of the company and the other shareholder, namely, Rajesh Goel, is holding 62.5% paid-up equity shares.

6. Though the company was incorporated with great ideas and ambitions, however, due to internal bickering of the shareholders, the company could not do the business in the desired way and in the process, it incurred losses every year. The dispute between the parties took a turn for the worst on and from 11.05.2017 when the petitioner herein has filed a petition under Section 241/242 against the majority shareholders of M/s Goel Marketing and Distribution Company Limited, which was registered as

7. In the meantime, the other shareholder who also happened to be the other Director of the company, in an effort to take control of the affairs of the company, convened a meeting of the Board of Directors of the company. But the said meeting of the Board of Directors was convened in such a way that it was not possible for the petitioner to appear and attend the same.

8. Further, the petitioner was asked to produce before the Board of Directors on 31.08.2017 certain documents which cannot be kept elsewhere except in the registered office of the company which is situated in Guwahati. Therefore, it was not possible for the petitioner herein, who is a Delhi based businessman, to lay his hands on all the documents which he was asked to produce before the Board of Directors on 31.08.2017 when the meeting aforesaid was convened.

9. Although the petitioner expressed his inability to attend the Board Meeting, scheduled on 31.08.2017 and also expressed his inability to produce those documents before the Board, yet, his very valid grievances were not taken into

consideration and the adjourned Board Meeting was conducted on 07.09.2017 in his absence. However, said Board Meeting, held on 07.09.2017, was terminated because of the absence of the other Director of the company, he being the petitioner herein.

10. In the meantime, the petitioner was further informed that the AGM of the company would be conducted on 26.09.2017. But the agenda of the meeting as well as its timing clearly demonstrate that such effort to conduct AGM on 26.09.2013 is nothing but an attempt to hoodwink the authority concerned to show that the business of the company was conducted in accordance with the requirement of law. All these demonstrate the ulterior motive of the respondent No.2 in conducting Board Meeting and AGM.

11. Subsequently, the petitioner came to know from the letters issued by the Ministry of Corporate Affairs (in short, MCA) that the company was required to furnish certain documents regarding removal of the Director, he being the petitioner.

11. On getting such information, the petitioner wrote to the Registrar of Companies (in short, ROC) concerned stating that at no point of time, any Board Meeting was convened giving the petitioner an opportunity of being heard before his removal from the Board before expiry of his term as required under the law. Further, the petitioner had sent another letter to the ROC communicating him the similar facts.

12. Thereafter, the MCA informed the petitioner that since the company could not produce the relevant documents showing the removal of the petitioner from the Board of Directors in accordance with the prescription of law, the format in which necessary information was sent to the authority concerned seeking its approval for the removal of the petitioner from the Board of Directors was not given effect to.

13. In the meantime, the petitioner came to know that the other Director, he being Rajesh Goel, appointed his son as Additional Director of the company in terms of Section 161 of the Act of 2013. However, such appointment of the son of Rajesh Goel, he being Rochak Goel, is profoundly illegal since it was done in total violation of the requirements of law.

14. The petitioner apprehends that if the present board is allowed to function, then there is every possibility of petitioner herein being marginalized and put to a position from which he would not be able to raise his voice whatsoever against the illegalities which are likely to be committed by the Directors in the days to come.

15. In the face of above allegations, petitioner has prayed for the reliefs aforementioned in the form of winding up of the company since a complete deadlock has occurred in the running of the affairs of the company and it would not be possible for the company to do any business whatsoever in the days to come.

16. On hearing the learned Advocate for the petitioner having regard to the submissions, made and the averments made in the petition, I am of the opinion that notice be sent to the respondents to show cause as to why the reliefs, sought for, shall not be granted.

17. The petitioner shall take steps by registered post with A/D. The petitioner is also directed to send the petition and the all the documents enclosed therewith through email addresses of the respondents.

18. The respondents are directed to submit their reply within a period of three weeks from the date of receipt of the petition supplying simultaneously copies thereof to the petitioner. The petitioner, if so advised, may file rejoinder to the reply within a period of one week therefrom supplying simultaneously copies thereof to the respondents for their information and necessary action.

19. List this matter on 08.01.2018.

Sd/-

Member (Judicial)
National Company Law Tribunal,
Guwahati Bench,
Guwahati.

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